

EXHIBIT 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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PRESTON JONES and SHIRIN)
DELALAT, on behalf of)
themselves, all others)
similarly situated, and)
the general public,)

Plaintiffs,)

v.) CASE NO. CV-00711-HSG

NUTIVA, INC.,)
Defendant.)

VIDEOTAPED DEPOSITION PROCEEDINGS OF
SHIRIN DELALAT
MONDAY, OCTOBER 2, 2017

REPORTED BY: ANGIE DINER, RMR, CRR, CSR NO.9581

PAGES 68, 70, 76, 78 and 123 ARE CONFIDENTIAL ATTORNEYS EYES ONLY

1 A. I think it's misleading. 11:58:57

2 Q. And why do you think it's misleading? 11:58:58

3 A. Because it -- if it doesn't have any -- it 11:59:00

4 just doesn't really make a lot of sense. If it's 11:59:06

5 100 percent less cholesterol -- I don't know. It 11:59:09

6 just didn't -- doesn't make much sense to me now, 11:59:14

7 because it -- knowing what I know now about coconut 11:59:18

8 oil, it's essentially the same as butter. 11:59:22

9 Q. What do you mean by that? 11:59:23

10 A. As far as the properties of how it reacts in 11:59:26

11 -- within your system. 11:59:32

12 Q. Can you explain what you mean by that? 11:59:33

13 MR. FITZGERALD: Objection. Calls for 11:59:37

14 expert testimony. 11:59:39

15 MR. COLE: Q. Well, you said that knowing 11:59:40

16 what you know now, you said that coconut oil is 11:59:42

17 basically the same as butter? 11:59:44

18 A. Yes. 11:59:45

19 Q. And why? 11:59:46

20 MR. FITZGERALD: Objection. Asked and 11:59:48

21 answered. 11:59:49

22 THE DEPONENT: There were some facts that my 11:59:51

23 attorney showed me. 11:59:55

24 MR. COLE: Q. And getting back to the issue 11:59:57

25 of why you think it's misleading, 100 percent less 12:00:02

1	cholesterol than butter, you said you think it's	12:00:06
2	misleading, and I think you said it's because it	12:00:08
3	doesn't make sense for something that has no	12:00:09
4	cholesterol. Is that what you meant?	12:00:13
5	MR. FITZGERALD: Objection.	12:00:16
6	Mischaracterizes the testimony.	12:00:18
7	THE DEPONENT: Sort of. It -- to me, the	12:00:19
8	impression that I got when I read, not just that,	12:00:26
9	but everything all together, was that it was a	12:00:29
10	healthy choice, and so that's why I think that it	12:00:33
11	doesn't make much sense in saying that, because it's	12:00:37
12	not necessarily any better than butter.	12:00:43
13	MR. COLE: Q. So you said the impression	12:00:48
14	you got when you read that, with everything else	12:00:50
15	together. What do you mean by everything else	12:00:53
16	together?	12:00:56
17	A. With organic, with nourishing, that it's the	12:00:56
18	world's best cooking oil, that it's	12:01:00
19	non-hydrogenated, that it doesn't have any trans fat	12:01:11
20	in it, zero trans fat, that it's better than butter,	12:01:13
21	and that it's a nutritious substitute.	12:01:18
22	Q. Okay. And so I believe you testified	12:01:23
23	earlier that you read those things the first time	12:01:27
24	you purchased it, and then in subsequent purchases	12:01:30
25	you -- you didn't reread everything because you were	12:01:33

1 buying the same product. Is that what you said 12:01:36
2 before? 12:01:37
3 A. Yes. 12:01:38
4 Q. Okay. And so sticking then, again, with 12:01:38
5 100 percent less cholesterol than butter, on its 12:01:43
6 own -- do you think there's anything misleading 12:01:48
7 about it on its own? 12:01:50
8 MR. FITZGERALD: Objection. Calls for a 12:01:51
9 legal conclusion. You can answer. 12:01:53
10 THE DEPONENT: Well, can we go back to the 12:01:58
11 question right before? Because there was -- 12:02:00
12 MR. COLE: Q. Sure. 12:02:00
13 A. It also says "nature's ideal all-purpose 12:02:01
14 oil," and I try to consume natural and non-processed 12:02:07
15 products, so that was another thing. 12:02:11
16 But can you repeat the next question? 12:02:14
17 Q. Oh, sure. 12:02:17
18 A hundred percent less cholesterol than 12:02:18
19 butter; I understand that you said that you read 12:02:21
20 that -- that in the context of those other 12:02:23
21 statements you read, that you got an impression, an 12:02:26
22 overall impression. But I -- I want to also 12:02:29
23 understand what your impression was of each 12:02:30
24 statement, because I believe you allege that they're 12:02:33
25 individually misleading, but I could be wrong. So I 12:02:36

1 want to just check and see what your -- what your 12:02:39
2 thoughts are. 12:02:40
3 Do you think that -- did you think that 12:02:41
4 100 percent less cholesterol than butter was 12:02:42
5 misleading on its own? 12:02:46
6 A. It's hard for me to say that any one of 12:02:47
7 these things would have been -- would have caused me 12:02:51
8 to have a certain impression, because I formed an 12:02:54
9 opinion based on all the things together, so I 12:02:58
10 don't -- I don't know how to answer that question. 12:03:01
11 Q. Okay. So you mentioned nourishing people 12:03:04
12 and planets as one of the statements that was 12:03:12
13 relevant to you? 12:03:15
14 A. Yes. 12:03:16
15 Q. And tell me again what you thought meant -- 12:03:16
16 that statement meant, nourishing? 12:03:19
17 A. I believed that it meant this was a health 12:03:21
18 food company or a company that made healthy 12:03:23
19 products. 12:03:27
20 Q. And the next statement you mentioned was 12:03:27
21 "world's best cooking oil" is that right? 12:03:31
22 A. I did mention that. I don't know what order 12:03:33
23 I -- 12:03:37
24 Q. Fair enough. Fair enough. 12:03:37
25 So world's best cooking oil. And what did 12:03:39

1 and relied upon, among" -- "among other things, the 12:26:11
2 phrase '100 percent less cholesterol than butter.'" 12:26:13
3 Do you see that? 12:26:17
4 A. Yes. 12:26:17
5 Q. And it makes no reference to any of the 12:26:18
6 other statements on the label other than 12:26:20
7 "100 percent less cholesterol than butter," correct? 12:26:23
8 A. Correct. 12:26:26
9 MR. FITZGERALD: I'm going to say, 12:26:27
10 mischaracterizes the document, which speaks for 12:26:27
11 itself. It says "among other things." 12:26:30
12 MR. COLE: Fair enough. 12:26:32
13 MR. COLE: Q. And Ms. Delalat, is it fair 12:26:33
14 to say that -- would it be correct to say that the 12:26:39
15 statement that stood out to you the most when you 12:26:42
16 first purchased the coconut oil was "less 12:26:45
17 cholesterol than butter"? 12:26:46
18 A. I -- I don't know. I looked at it as a 12:26:48
19 whole. I can't separate the one statement from the 12:26:52
20 other claims. 12:26:56
21 Q. And I'm not asking you to share any 12:26:57
22 communication with your counsel or any decisions 12:27:00
23 your counsel made about the declaration. I just 12:27:02
24 want to ask you, at the time you filled out this 12:27:03
25 declaration, did you intentionally, in your own 12:27:05

1 MR. FITZGERALD: You can take the time to 13:46:38
2 read the whole paragraph if you need to. 13:46:39
3 THE DEPONENT: Okay. 13:47:14
4 MR. COLE: Q. Okay. Now having had a 13:47:16
5 chance to read that, do you see that it refers to a 13:47:17
6 discussion of Omega 6 versus Omega 3 fatty acids? 13:47:20
7 A. Yes. 13:47:24
8 Q. And prior to reading that, have you ever 13:47:25
9 heard of any difference between Omega 6 versus Omega 13:47:28
10 3 acid? 13:47:32
11 A. I've heard those terms thrown around. I 13:47:33
12 don't know a lot about the specifics. 13:47:36
13 Q. Do you know whether -- do you know what the 13:47:38
14 Omega 6 versus Omega 3 content is of coconut oil? 13:47:42
15 A. Nope. 13:47:46
16 Q. Do you know what the Omega 6 versus Omega 3 13:47:47
17 content is of butter? 13:47:51
18 A. No. 13:47:53
19 Q. And I guess, as you sit here today, do you 13:47:53
20 know whether butter has more or less Omega 3's than 13:47:58
21 coconut oil? 13:48:02
22 A. I don't know. 13:48:02
23 Q. And would it matter to you either way? 13:48:05
24 A. I'm probably not going to consume either. 13:48:07
25 Q. Okay. Earlier in your testimony, we 13:48:10

1 reviewed the statements on the label on Exhibit 522 13:48:57
2 that you said you read before the first time you 13:48:59
3 made the purchase of the coconut oil, and that you 13:49:02
4 read them together in context. Do you recall that 13:49:06
5 testimony? 13:49:09
6 A. Yes. 13:49:09
7 Q. And I believe -- well, let me ask you, of 13:49:09
8 the statements you identified, did any statement in 13:49:14
9 and of itself mislead you or did you feel they were 13:49:19
10 misleading together, read together in context? 13:49:22
11 A. As I mentioned before, it's hard for me to 13:49:23
12 separate them because I only -- my experience was 13:49:28
13 with all of them in context, so. 13:49:30
14 Q. So -- and now, tell me again how you read 13:49:33
15 them in context. What did they mean to you when you 13:49:35
16 read them in context before you purchased the 13:49:39
17 coconut oil? 13:49:41
18 MR. FITZGERALD: Objection. Calls for a 13:49:42
19 narrative. Not reasonably particular as -- 13:49:42
20 THE DEPONENT: That I was making a healthy 13:49:45
21 choice. 13:49:47
22 MR. COLE: Q. And did you interpret those 13:49:48
23 statements together in context to mean anything 13:49:49
24 other than you were making a healthy choice? 13:49:52
25 A. That was the conclusion I drew from 13:49:54

1 everything I read. 13:50:00

2 Q. And what -- let's talk about what that 13:50:01

3 means. What did it mean to you that you were making 13:50:05

4 a healthy choice? 13:50:07

5 A. It meant that I would be cooking foods for 13:50:08

6 my father and for myself that were healthy. 13:50:11

7 Q. And what does healthy mean to you? 13:50:14

8 A. Foods that don't increase your risk of 13:50:18

9 disease, or keep you feeling -- foods that keep you 13:50:24

10 feeling optimal. 13:50:30

11 Q. Did healthy to you -- at the time you read 13:50:32

12 the label, did healthy to you mean anything in 13:50:43

13 addition to foods that don't increase your risk of 13:50:47

14 disease and that keep you feeling optimal? 13:50:49

15 A. Probably. It's hard to define what healthy 13:50:53

16 means. I can't think of specific... 13:50:58

17 Q. Do you -- sitting here today, do you believe 13:51:07

18 that a food is either healthy or not healthy? 13:51:18

19 MR. FITZGERALD: Objection. Incomplete 13:51:21

20 hypothetical. 13:51:23

21 THE DEPONENT: I don't know. 13:51:25

22 MR. COLE: Q. Well, let's talk about some 13:51:26

23 specific foods just as an example. A butter, for 13:51:29

24 example, I think you -- I would assume from prior 13:51:31

25 testimony, you believe it's unhealthy. 13:51:34

1 A. Correct. 13:51:36

2 Q. How about fruit, like an apple? 13:51:36

3 MR. FITZGERALD: Objection. Calls for 13:51:44

4 expert testimony. 13:51:45

5 THE DEPONENT: I don't know. I -- it 13:51:46

6 doesn't agree with me. 13:51:49

7 MR. COLE: Q. How about an egg? 13:51:53

8 A. I'm not sure. I'm reactive to eggs. 13:51:59

9 Q. Do you think that healthy is the same for 13:52:03

10 everybody? 13:52:06

11 MR. FITZGERALD: Objection. Calls for 13:52:10

12 speculation. Calls for expert testimony. 13:52:11

13 THE DEPONENT: That's a hard question to 13:52:13

14 answer. 13:52:15

15 MR. COLE: Q. Why is it a hard question to 13:52:15

16 answer? 13:52:17

17 A. Because everyone has a different definition 13:52:17

18 of healthy, so it would just be my definition. 13:52:22

19 Q. I'm going to show you what we'll mark as -- 13:52:25

20 actually, I'm going to show you that exhibit in a 13:52:25

21 bit. Before we do that, let's talk about how you 13:53:03

22 came in contact with your counsel in this case. 13:53:06

23 When did you first have contact with your counsel in 13:53:07

24 this case? 13:53:10

25 A. I think it was in 2016. 13:53:10

REPORTER'S CERTIFICATE

I, Angie Diner, CSR 9581, duly authorized to administer oaths pursuant to Section 30(c) of the Federal Rules of Civil Procedure , hereby certify that the deponent in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of the said witness was reported by me and thereafter transcribed by me and that the witness was given an opportunity to read and correct said deposition and to subscribe the same.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the outcome of the cause named in said cause of action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Angie Diner, CSR, RPR, CCRR, License No. 9581

Dated this 7th day of October 2017.